

**Andover Conservation Commission Meeting Minutes
January 4, 2011**

Town of Andover
36 Bartlett Street
3rd Floor Conference Room
7:45pm

Conservation Commission Members in Attendance:

Chairman Donald Cooper, Vice Chairman Michael Walsh, Commissioner Gail Ralston, Commissioner Floyd Greenwood, Commissioner Kevin Porter, Commissioner Jon Honea and Commissioner Alix Driscoll. Staff Members present were Robert Douglas, Director of Conservation.

SCHEDULED ITEMS:

92-94 Argilla Road

Present in Interest: Lisa Giamari, Caroline Young, Dave McRitchey, Yizhong Yin, Jack McQuilkin, Al Marotta and Al Coralice

Staff Recommendation: Close Public Hearing and Issue

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or Andover Wetlands Protection By-Law for the proposed reconstruction of a single family dwelling and associated site work.

Mr. Douglas presented this to the Commission. This filing is under both the WPA and our By-Law. This was continued from April 6, 2010 for purposes of an engineering peer review relative to the drainage. The Applicant has moved the project to conform with the setback requirements. The project is exempt from the stormwater management plan because it is a single family dwelling. The recharge is being taken care of in the front of the house. The Applicant is requesting an exemption on the recharge and pre and post peak flows analysis. The pre and post peak flows are difficult to calculate because the number between what is there now and what is proposed is such a small number. The driveway is more than 50 feet from the resource area and the infiltration trench is with 30 feet of the resource area by 1 ½ feet along the driveway.

Al Coralice is concerned with basement flooding with any change of contour on this lot. There will be a grass swale 6 to 8 feet from the property line pushing the water towards Argilla Road and the wetland. Chairman Cooper asked the Applicant to include the following language; "Swale to continue 1 foot deep to Argilla Road" to the plan.

The Commission waived the pre and post peak flow and infiltration trench.

Chairman Cooper asked for a Motion. Commissioner Greenwood made a Motion to close the public hearing, it was seconded by Vice Chairman Walsh and unanimously approved.

Commissioner Greenwood made a Motion to Approve the Waivers and Approve the project as presented, it was seconded by Commissioner Driscoll and unanimously approved.

103 Chestnut Street

Present in Interest: Arlene Andrukaitis

Staff Recommendation: Continue

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed demolition of an existing garage and construction of a new garage and an addition.

The Applicant has requested a continuance to January 18, 2011.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to continue to January 18, 2011, it was seconded by Commissioner Driscoll and unanimously approved.

4 Bancroft Road

Present in Interest: James Berberian

Staff Recommendation: Continue

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of a garage.

Mr. Douglas presented this to the Commission. The filing is complete and under both the WPA and By-Law. The large garage is outside the 50 foot setback. The Arborvitae bed is close to the wetland and the wall is within one foot of the wetland. The raised Arborvitae bed will keep debris out of the wetland. The wall is existing, but is deteriorated. The structural stability of the wall and the rebuilding of the wall without entering the wetland are concerns. The wall will be rebuilt by hand on the opposite side of the wetland and can be inspected for stability. Any work on the Route 28 side is not within the wetland. The garage structure is OK.

The Applicant asked to withdraw the landscaping portion of the Notice of Intent and continue with the garage only.

Commissioner Ralston made a Motion to grant the withdrawal, it was seconded by Commissioner Greenwood and unanimously approved.

The Commission will conduct a site visit on January 15th at 8:00am.

Chairman Cooper asked for a Motion. Commissioner Driscoll made a Motion to Close the Public Hearing and approve as amended, it was seconded by Vice Chairman Walsh and unanimously approved. Commissioner Ralston made a Motion to issue the Order of Conditions, it was seconded by Commissioner Driscoll and unanimously approved.

9 Pride's Circle

Present in Interest: Steve Erickson

Staff Recommendation: Project is under the By-Law

Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act for the proposed construction of a landscape wall, inground pool and walkway.

Mr. Douglas presented this to the Commission. The filing is under the WPA only, however they are not exempt from the By-Law because there was no pool in the original Superceding Order of Conditions; the Superceding Order of Conditions was issued June 4, 1999, after the cutoff date; and the building permit was not issued until August 11, 2006, after the cutoff date for the by-law. This is a "Backyard Project". This is a small lot for a big house, driveway and pool. The pool could be moved to the end of the house and/or reduced in size to meet the required setback.

Mr. Erickson presented the project to the Commission. There will be a 2 foot high wall at the edge of lawn with a metal fence along the wall. The fence will be the limit of work. The area where the pool will be dug is now a flat lawn area.

The 2 issues are: Does the By-Law Apply? And Waiver for 30 foot setback for the pool. Chairman Cooper and Commissioner Ralston suggested reducing the patio to 16 feet instead of 30 feet to try to meet the setback. The Commission scheduled a site visit for January 15, 2011 at 8:30am.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to continue to January 18, 2011, it was seconded by Commissioner Driscoll and unanimously approved.

Taylor Cove

Present in Interest: Katherine Cronin, Robert Cronin, Mick Mueck, Subhash Dandage, Frances Wheeler, John Murphy and Don Borenstein

Staff Recommendation: Continue

Continued Public Hearing on a Notice of Intent filed under the Massachusetts Wetlands Protection Act for the proposed construction of a portion of a roadway, infiltration basin and three buildings with associated grading.

Mr. Douglas presented this to the Commission. This is continued from December 21, 2010. The Applicant has not been forthcoming as to whether they will fund the peer review. The Applicant has not funded the reduced scope of work peer review and did not respond to emails regarding payment. Attorney Borenstein inquired as to why the cost increased while the scope of work was reduced. Staff recommends the Commission pay for the review as we will need the information as the case progresses.

Chairman Cooper asked whether the Applicant will fund the scope to be done by Ann Marton or not. The Applicant agreed to pay and will forward the check this week. The McRitchy report will be forwarded to Attorney Borenstein for review.

Chairman Cooper asked for a Motion. Commissioner Ralston made a Motion to continue to a date uncertain, it was seconded by Commissioner Driscoll and unanimously approved.

18 Off Webster Street

Staff Recommendation: Close the Public Hearing and Approve

Continued Public Hearing on the Notice of Intent filed under the Massachusetts Wetlands Protection Act and/or the Andover Wetlands Protection By-Law for the proposed construction of a single family dwelling and associated site work.

Mr. Douglas presented this to the Commission. The filing is under both the WPA and By-Law. Waivers are being requested for setbacks, but this is a limited project. This was continued from May 18, 2010 for purposes of following up on the lot lines, Application for ANR and/or Building Permit and correction of plan deficiencies. Continued again on December 21, 2010. The Commission discussed moving the road to increase the setbacks, but the lots are owned separately and it cannot be done. The front lot lines have been corrected on the revised plan.

Chairman Cooper asked for a Motion. Commissioner Honea made a Motion to close the public hearing and approve the project using pavers for the entire driveway instead of concrete. The Motion was seconded by Commissioner Driscoll and unanimously approved.

CONSENT AGENDA:

Minutes

Staff Recommendation: Approve

Approval of Minutes from meetings of November 16, 2010 and November 30, 2010.

Vice Chairman Walsh made a Motion to Approve, it was seconded by Commissioner Ralston and unanimously approved.

5 Tally Ho Lane

Staff Recommendation: Issue and Record

Issuance of 2 Notifications of Satisfactory Completion of Work Certificates. One was not recorded. We will require both initial and Completion Certificates be recorded.

Commissioner Driscoll made a Motion to issue both Certificates and record, it was seconded by Vice Chairman Walsh and unanimously approved.

81 Haverhill Street

Staff Recommendation: Approve

Issuance of Notification of Satisfactory Completion of Work Certificate.

Vice Chairman Walsh made a Motion to Approve, it was seconded by Commissioner Ralston and unanimously approved.

INFORMATION ITEMS THAT MAY REQUIRE A VOTE:

2 Bancroft Street

Present in Interest: James Berberian

Discuss sediment issue. CDM is on board. Mr. Berberian requested sedimentation control be installed.

Legends Condominium Conservation Restriction

Sign Amended Conservation Restriction. Request to continue to January 18, 2011.

Commissioner Driscoll made a Motion to continue to January 18, 2011, it was seconded by Commissioner Ralston and unanimously approved.

14 Evergreen Lane

Enforcement order. This property owner is a repeat offender. The property owner has filled, cleared and graded areas on Conservation land as well as plantings on numerous trails. Some cutting of trees has also been done and dumped into wetlands. A friendly enforcement order issued ordering the property owner to cease and desist and the resource areas returned to their original condition per an approved plan. A restoration plan shall be filed on or before January 17, 2011. A narrative describing the proposed

means of restoring all violations and for removal of all fill, disposal of the material and restoration monitoring plans. The narrative must also be filed by January 17, 2011. All restoration shall be completed by June 15, 2011 and will be monitored for a period of 2 years.

29 Hearthstone

Encroachment Enforcement of fence and trampoline on Conservation Land. Fence is 30 feet, more or less onto Conservation Land.

Commissioner Greenwood made a Motion to issue the Enforcement Order, it was seconded by Commissioner Driscoll and unanimously approved.

Country Club Lane

Present in Interest: Steve Erickson

Enforcement Order for tree cutting in wetland. A few golfers were authorized by the Country Club to cut 2 trees for firewood. Mr. Erickson informed the Commission at 20 trees were cut and unauthorized cutting along edge of the fairway. A replanting plan will to be filed for review within one month.

Commissioner Ralston made a Motion to approve filing of replanting plan within one month, it was seconded by Commissioner Driscoll and unanimously approved.

DISCUSSION ITEMS:

Fosters Pond

Fosters Pond Update. The price is \$150,000.00 for 1.3 acres which would benefit the water department as well as the Conservation Commission. The Water Department needs to be the front department for this purchase.

Town WD Land

Transfer water department land to the Conservation Commission. The Commission will bring this to Town Meeting. It will be a non money transfer of 180 acres from the water department to the Conservation Commission.

Commissioner Honea made a Motion to endorse the transfer, it was seconded by Commissioner Driscoll and unanimously approved.

PA Land

The Commission would like to purchase the Riverfront Bunker from Phillips Academy should it become available.

Victoria Place-River Street

Present in Interest: Katherine Cronin, Robert Cronin, Mick Mueck, Subhash Dandage, Frances Wheeler, John Murphy and Don Borenstein

Consideration for Enforcement action related to Earth Removal.

A. "Applicable Permits", Proponents do not have nor have applied for Earth Removal permit. They are no longer under a subdivision Control Cease and Desist.

2000 yards of earth to be removed for a single lot and there is no construction of the sewerage disposal system. Members of the Conservation Commission inspected the site with members of the developer's team to confirm the work is consistent with the developer's notices given prior to commencement of the most recent phase of work. The Comprehensive Permit No. 3803 that Attorney Borenstein references is for Taylor Cove. The Commission believes the developer is doing site work not permitted by the Conservation Commission and would like to issue an Enforcement Order. Chairman Cooper suggested not issuing the Enforcement Order at this meeting, but doing more research on the issue. The Commission will issue a letter to the Applicant (developer) calling his attention to the violation and copy the Zoning Board of Appeals to be mailed tomorrow.

B. "DV8" Proponents have deviated from the approved plan. Cease and desist.

Based on an email from Attorney Borenstein dated January 4, 2011, the Commission was informed that utilities have been installed, specifically the sanitary line. This is not in conformance with the plans that are on file with the Commission. Mr. Douglas, Commissioner Greenwood and Scott Kelloway conducted a site visit and could not determine stubs for various sites as they are subsurface. Commissioner Greenwood commented that the markers are ambiguous and did not make sense for this project. Attorney Borenstein agreed to have the Applicant restake the utilities for the scope of the project. A Special Permit is required from the Board of Appeals for earth movement not covered under the provision of Sections 6.3.2, 6.3.3 and 6.3.4. Regrading or importing of less than 300 cubic yards or exporting of less than 50 cubic yards of earth materials during any 3 year period is allowed without a Special Permit. The Commission believes the Applicant does not have the appropriate Special Permit for earth removal or regarding. Mr. Douglas would like to issue an Enforcement Order requiring the Applicant to cease and desist, stabilize the site, establish erosion control and sedimentation control until the site is stabilized. All work would be approved by the Conservation Agent or designee before taking place. Chairman Cooper recommended including this in the letter to be drafted to the Applicant because an Enforcement Order cannot be issued based on an email, it must be based on the site visit.

The next meeting will be held January 18, 2011 at 7:45pm.

**The meeting was adjourned at 11:06pm by Motion of Commissioner Driscoll,
seconded by Commissioner Honea and unanimously approved.**

Respectfully submitted by:

**Lynn Viselli,
Recording Secretary**